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STATE PASS USTR FOR AUSTR BWEISEL, COMMERCE FOR
DBISBEE, USPTO FOR JNESS AND PFOWLER
USDA FAS FOR CMP/DLP, ITP/AAD

E.O. 12356: N/A

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SUBJECT: USTR CONCLUDES FIRST REVIEW OF U.S.-SINGAPORE FTA

REF: A) Singapore 165 B) Singapore 275

11. (SBU) Summary: In their first annual review of the U.S.-Singapore Free Trade Agreement (FTA) held February 2, representatives from the USG and GOS expressed general satisfaction with implementation of the FTA during its first year. AUSTR Barbara Weisel noted Singapore's recent efforts to engage on our intellectual property concerns and its plans to amend its Copyright Law by May 2005. Weisel emphasized that the USG remained concerned about Singapore's implementation of its telecom commitments. Singapore's telecom regulator said that it had launched an investigation into claims that its dominant carrier, SingTel, was using technology as a way to undermine the prescribed deregulation process, and accepted the USG's offer to weigh in with comments before it makes a final determination concerning possible non-competitive and discriminatory practices. The GOS said that it had established a Competition Commission as a first step in implementing its new Competition Law and that regulations would begin to take effect by the end of the year. The FTA review also covered issues related to Singapore's requests for changes to the FTA, discussed its ban on U.S. beef, and touched on implementation updates concerning professional services, financial services, and the environment. AUSTR Weisel called on Singapore to work with the U.S. on the Doha Round, and to take on a coordinating role in ASEAN to push the regional trade agenda forward. The GOS acknowledged that this was possible, but cautioned that Singapore had to be mindful of sensitivities in the region. End Summary.

FTA's First Year: A Good Start

12. (U) Ministry of Trade and Industry (MTI) Deputy Secretary for Trade Ms. CHAN Lai Fung told Assistant USTR

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Barbara Weisel that Singapore was very pleased with the generally smooth implementation of the U.S.-Singapore FTA during its first year. AUSTR Weisel agreed that positive economic and trade data as well as public feedback supported this conclusion. She noted that this was the most comprehensive FTA undertaken by both countries and that the USSFTA had become the model for other agreements. Economic and trade cooperation between the U.S. and Singapore had always been good, Weisel said, and the USSFTA had done much to generate even closer ties that would prove invaluable as both countries worked together on the WTO Doha Round.

Intellectual Property

13. (U) AUSTR Weisel expressed her appreciation for Singapore's efforts to engage fully over the past few weeks on implementation concerns related to its intellectual property (IP) regime. She expressed her hope, and DepSec Chan concurred, that both sides were very close to resolving remaining issues, possibly as soon as within the next few days. Asked why Singapore was projecting that it could not amend its Copyright Law before May, Ministry of Law Deputy Director Mr. CHERN Siang Jye explained that this timeline took into account a number of requirements, including: finalizing the revisions currently under discussion with USTR; drafting the amended legislation; allowing for a 30-day comment period and subsequent consideration of this input; and presentation of the bill to Parliament when next in session.

14. (U) Asked about the status of implementing regulations for internet service providers (ISPs), Intellectual Property Office of Singapore (IPOS) Director/Legal Counsel Ms. LEE Li Choon said that these should come into force no later than early March.

Telecom

15. (SBU) AUSTR Weisel emphasized that Singapore's implementation to date of its telecommunications commitments

related to leased circuit services constituted the USG's issue of greatest concern. She acknowledged that Singapore's regulator, the Infocomm Development Authority (IDA), had made progress in trying to make these services available to U.S. carriers at more competitive prices, but stressed that the technical interconnection specifications offered by the dominant carrier, SingTel, made it impossible for these companies to take advantage of the new regulations. AUSTR Weisel noted that U.S. carriers felt SingTel's requirements were non-competitive, ran counter to industry practice in the region and globally, and rendered the intended price reductions meaningless. She stressed that the FTA obligated Singapore to provide carriers with prices that were not only reasonable, but also non-discriminatory. Deputy AUSTR Elena Bryan said that the USG was concerned that SingTel was using technology as a way to undermine the prescribed deregulation process. DepSec Chan agreed that, if this were the case, the Singapore government would need to take action.

16. (SBU) IDA Senior Manager Gerald Wee explained that IDA had launched an internal investigation of SingTel's practices after foreign carriers brought this issue to its attention and expected to report its findings within one to two months. In making a final determination, Wee said, IDA would need to balance its FTA commitments to ensure that local leased circuits (LLCs) were provided at a reasonable cost with the needs of SingTel, which had invested millions of dollars in infrastructure. Wee assured Weisel that if its findings suggested SingTel was engaging in non-competitive behavior, IDA would take all the necessary steps to rectify this problem.

17. (U) AUSTR Weisel said that the USG would appreciate an opportunity to weigh in with comments before IDA made its decision. DepSec Chan agreed, but cautioned that this might delay IDA's decision-making process. Weisel explained that the FCC had considerable experience with these type of issues in the U.S. market and would be willing to share this information with the Singapore government. Wee asked if FCC could also provide data available for other telecommunications markets.

Competition Law -----

18. (U) DepSec Chan said that Singapore was in the beginning stages of implementing Phase I -- establishment of a Competition Commission -- of its new Competition Law that came into effect January 1, 2005. The Commission currently employed 25 staff, and had shortlisted names for Assistant Chief Executive level positions, including a number of overseas competition experts, Chan explained. The Commission was prepared to begin drafting implementing regulations (as part of Phase II), with public consultation periods and related enactments targeted for the end of 2005, Chan explained. The Singapore government was also working to expand public awareness of the new law's provisions, Chan said, and was considering outreach programs similar to those launched by IPOS in 2004 on IPR.

Lifting Singapore's Beef Ban -----

19. (U) In addition to reiterating GOS talking points reported in reftels, DepSec Chan said that Singapore's decision to lift its ban on U.S. beef and beef products should not require any legislative changes. She noted that the BSE issue concerned food safety and not trade, and that the Agri-Food and Veterinary Authority (AVA) would therefore make the determination whether to lift the beef ban. AgCounselor stressed the need to keep discussion and evaluation of the issue science-based.

Singapore's Specific FTA-Related Requests -----

10. (SBU) -- Tariffs acceleration (polycarbonates, LCD televisions, nutritionals): AUSTR Weisel explained that the USG is developing a process by which to balance tariff agreements made in different FTAs, and would follow up with the GOS once this information is available.

-- Rules of Origin (electric smoothing irons): Deputy AUSTR Bryan explained that the Singapore company in question that was engaged in the manufacture of electric smoothing irons would not qualify for a change in the regional value content (RVC) rule since key components of its manufacturing process were taking place outside Singapore. She suggested, and Chan agreed, that both side's technical experts should engage in further discussions related to this request.

-- Electronic Exchanges of Health Certificates: AUSTR Weisel said that the USG would first evaluate the efficacy of its pilot project with Australia (Singapore is also engaged in a pilot project with Australia) before deciding

whether to extend this initiative to Singapore.

-- Textiles (more flexible tariff preference level (TPL) program; relaxation of "wholly done in Singapore" requirement; use of foreign-origin components; improvements in de minimis provision): AUSTR Weisel explained that these issues were very sensitive and that changing the USSFTA to accommodate them would be extremely difficult.

Enhancement of the Trade Relationship

11. (U) AUSTR Weisel asked for Singapore's continued support for ongoing work in the WTO and other regional fora such as APEC and ASEAN. She said that USTR considered Singapore to be a key player in ASEAN and encouraged it to take on a coordinating role to push ASEAN's trade agenda forward. Chan acknowledged that this was possible, but cautioned that Singapore had to be mindful of various sensitivities in the region. Chan noted that she would be in Geneva the week of February 7 and would engage in discussions with other WTO representatives about how to conclude the Doha Round.

Other Implementation Issues and Follow Up

12. (SBU) In reviewing the list of other pending FTA implementation requirements, both sides agreed to the following:

-- Medical Products Working Group: Both sides will clarify the remaining steps that need to be taken to formally establish the working group.

-- Law Schools: USTR will respond to Singapore's proposed list of those four U.S. law schools whose degrees earned by Singapore citizens will be recognized for admission to the Singapore bar.

-- Financial Services: DepSec Chan said that Singapore stands ready to implement its various phased-in financial services commitments, the next of which (lifting the current quota on new licenses for full-service banks) comes into effect in July 2005. Chan confirmed that no legislative changes, only regulatory revisions, would be necessary for implementation. At USTR's request, Chan offered to provide a more detailed written explanation of the procedures that would be put in place in order for U.S. financial service providers to take advantage of these new provisions.

-- Telecom: In addition to comments pertaining to the LLC issue and related background information, USTR agreed to provide the GOS with an explanation of the FCC's new regulations concerning unbundled network elements (UNE).

-- Maritime: The GOS will forward to the USG proposed language to correct omissions to its revised requirements for the registration of ships.

-- Environmental Cooperation: The USG will provide the GOS a Plan of Action as called for under the Memorandum of Intent on Cooperation in Environmental Matters signed in 2003.

-- Rules of Procedure: USTR will present a draft Rules of Procedure to the GOS for its comments.

FTA Review Participants

13. (U)

USG

Barbara Weisel, Assistant USTR for Southeast Asia, the Pacific and Pharmaceutical Policy
Elena Bryan, Deputy Assistant USTR for Southeast Asia and the Pacific
Peter Fowler, Senior Counsel, Office of Enforcement, External Affairs, U.S. Patent and Trademark Office
Jennifer Ness, Attorney-Advisor, Office of International Relations, U.S. Patent and Trademark Office
Jeff Beller, Economic Officer, Office of Bilateral Trade Affairs, Economic and Business Affairs Bureau, Department of State
David Bisbee, Market Access and Compliance Officer, Office of the Pacific Basin, Department of Commerce
Jonathan Gressel, Agricultural Counselor, Embassy Kuala Lumpur/Singapore
Paul Horowitz, Economic Officer, Embassy Singapore

GOS

Ms. Chan Lai Fung, Deputy Secretary for Trade, Ministry of Trade and Industry (MTI)
Mr. Lionel Yeo, Director, Trade Division 3, MTI
Ms. Ng Kim Neo, Consultant, Trade Division, MTI
Mr. Minn Naing Oo, Deputy Director, Trade Division, MTI
Ms. Lai Jiunn Ning, Assistant Director, Trade Division, MTI
Ms. Jill Wong, Senior Assistant Director, Trade Division, MTI
Ms. Lyndis Kang, Assistant Director, Trade Division, MTI
Ms. Cherie Lee, Assistant Director, Trade Division, MTI
Mr. Chern Siang Jye, Deputy Director, Ministry of Law
Ms. Valerie D'Costa, Director, International Division, Infocomm Development Authority
Mr. Gerald Wee, Senior Manager, Infocomm Development Authority
Mr. Daren Tang, State Counsel, Attorney General's Chambers
Ms. Deena Bajrai, State Counsel, Attorney General's Chambers
Ms. Lee Li Choon, Director/Legal Counsel, Intellectual Property Office of Singapore (IPOS)
Mr. Christopher Cheang, Deputy Director, International Economics Directorate, MFA
Mr. Sharon Chan, Assistant Director, International Economics Directorate, MFA
Ms. Margaret Liang, Consultant, MFA
Ms. Charlene Chang, Senior Assistant Director, Competition Commission of Singapore

14. (U) AUSTR Barbara Weisel cleared this message.

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